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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/234,695	01/21/1999	ANDRE-ROGER HENRY DELLEVI		5728

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LEONARD & PROEHL, PROF. L.L.C.  
3500 SOUTH FIRST AVENUE CIRCLE  
SUITE 250  
SIOUX FALLS, SD 57105

EXAMINER

VAN DOREN, BETH

ART UNIT PAPER NUMBER

3623

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/234,695

Applicant(s)

DELLEVI ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The following is non-Final Office action in response to communications received 04/02/04. Claim 17 has been amended. Claims 18-26 have been added. Claims 17-26 are now pending in this applications.

#### ***Response to Amendment***

2. Applicant's amendments to claim 17 are sufficient to overcome the 35 USC § 112, second paragraph, rejection set forth in the previous office action.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over MizziSoft (www.mizzisoft.com).

4. As per claim 17, MizziSoft teaches a computer-implemented method for processing signals related to trading shifts between employees, the method comprising:

accepting by the computer system a conditional offer, by a first employee assigned to work a first shift, to trade the first shift for another shift on the preliminary schedule of another employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, wherein a first employee enters a swap offer into the on-line program, wherein a preliminary schedule is already established);

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displaying by the computer system the shifts to other employees (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, wherein the shifts and schedule can be viewed);

receiving by the computer system a conditional acceptance from a second employee to trade a second shift of the second employee for the offered first shift of the first employee (See at least page 9, section 2-4, wherein a second employee would enter a swap request against his/her name);

confirming by the computer system a trade of the first shift of the first employee for the second shift of the second employee upon verification of criteria, or rejecting the trade of the first shift for the second shift upon non-verification of the criteria (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees);

wherein the step of confirming includes checking by the computer system training data associated with the second employee in a training database, and comparing the training data associated with the second employee with training requirements associated with a work area function to be performed on the first shift to verify that the second employee is qualified to perform the work area functions associated with the first shift (See at least page 4, sections 1-4, page 9, sections 2-4, page 13, section 1, and page 14, section 2, wherein the training database is checked);

wherein the step of confirming includes that the shifts are traded before the start of either of the first or second shifts and providing a management user of the computer system with the

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capability to change the schedule very close to the start of the shifts (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4);

additionally including displaying by the computer system to the second employee, upon confirmation of the trade, notifications relevant to the work area function of the first shift and the training data associated with the second employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4, and pages 13 and 14, wherein notifications about the shift and training data are viewable);

additionally including indicating by the computer system to the first employee, upon confirmation of the trade, the confirmation of the trade (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, section 2-4, wherein the schedule and shifts are viewable and once the swap occurs, the new schedule will also be visible); and

additionally including restricting by the computer system access to information about the trade of the first shift for the second shift upon confirmation of the trade (See at least page 9, sections 2-4, wherein access to information is restricted).

However, MizziSoft does not expressly disclose displaying to other employees the first user's conditional offer or checking by the computer system a length of time between a time of receipt of the conditional acceptance and a time of occurrence of the first shift and the second shift against a minimum time period for trading shifts to verify that the length of time is not less than the minimum time period.

MizziSoft teaches displaying the schedule and shifts, a user's ability to swap assigned shifts, and a user's ability to only enter information against his/her name in the on-line program. It is well-known in places of employment that when an employee wants to swap shifts, he/she must locate another employee with which to swap by verbally communicating with other employees or by posting a message for other employees to see. Since the system of MizziSoft only allows an employee to make changes against his/her name, it would have been obvious to one of ordinary skill in the art at the time of the invention to display the conditional offer in the on-line tool when the first user enters a request to swap shifts in order to efficiency of the tool in allowing users to swap shifts by streamlining the known process of swapping shifts.

Furthermore, MizziSoft discloses a computer-implemented means to trade shifts. It is old and well known that places of employment require that employees give notice by a specific deadline in order to do things such as take leave, swap shifts, etc. For example, at a bare minimum, an employee must swap a shift before the start of the shift in order to make sure the shift is staffed and the employee's responsibilities are filled. Examiner points out that in the broadest reasonable interpretation, the limitation "minimum time period" would any amount of time, such as the time just before the start of the shift. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a requirement in the online program of MizziSoft that specifies the swap must occur before the start of the swapped shifts in order to increase the efficiency of the schedule and the timeliness of the company by making sure that all areas involved are appropriately staffed. MizziSoft discusses the need of the company to reallocate shifts in at least page 2, section 1-2, page 3, sections 1 and 2, page 7, section 1, and page 9, sections 2-4.

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5. As per claim 18, MizziSoft discloses a computer-implemented method for processing signals related to trading shifts between employees, the method comprising:

establishing a preliminary schedule of shifts in a computer system (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, which discloses establishing a preliminary schedule);

verifying by the computer system an identity of a first employee (See at least page 2, section 1-2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, and pages 13 and 14, wherein the first employee is verified);

presenting to the first employee by the computer system the preliminary schedule of shifts (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, which discloses the first user viewing information);

accepting by the computer system a conditional offer from the first employee, assigned to work a first shift, to trade the first shift for another shift on the preliminary schedule of another employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, wherein a first employee enters a swap offer into the on-line program, wherein a preliminary schedule is already established);

displaying by the computer system the shifts to other employees (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, wherein the shifts and schedule can be viewed);

verifying by the computer system an identity of a second employee (See at least page 2, section 1-2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, and pages 13 and 14, wherein the second employee is verified);

receiving a conditional acceptance by the computer system from the second employee to trade a second shift of the second employee for the offered first shift of the first employee (See at least page 9, section 2-4, wherein a second employee would enter a swap request against his/her name);

confirming a trade of the first shift of the first employee for the second shift of the second employee upon verification of criteria, or rejecting the trade of the first shift for the second shift upon non-verification of the criteria (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees), the step of confirming including:

checking training data associated with the second employee in a training database (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees);

comparing by the computer system the training data associated with the second employee with a work area function to be performed on the first shift to verify that the second employee is qualified to perform the work area functions associated with the first shift (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees);

confirming by the computer system a trade of the first shift of the first employee for the second shift of the second employee upon verification of criteria, or rejecting the trade of the



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first shift for the second shift upon non-verification of the criteria (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4);

transferring by the computer system, upon confirmation of the trade, the first shift from the first employee to the second employee and transferring the second shift from the second employee to the first employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4);

displaying by the computer system to the second employee, upon confirmation of the trade, notifications relevant to the work area function of the first shift and the training data associated with the second employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4, and pages 13 and 14, wherein notifications about the shift and training data are viewable);

indicating by the computer system to the first employee, upon confirmation of the trade, the confirmation of the trade (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, section 2-4, wherein the schedule and shifts are viewable and once the swap occurs, the new schedule will also be visible);

restricting by the computer system access to information about the trade of the first shift for the second shift upon confirmation of the trade (See at least page 9, sections 2-4, wherein access to information is restricted).

However, MizziSoft does not expressly disclose displaying to other employees the first user's conditional offer or checking by the computer system a length of time between a time of

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receipt of the conditional acceptance and a time of occurrence of the first shift and the second shift against a minimum time period for trading shifts to verify that the length of time is not less than the minimum time period.

MizziSoft teaches displaying the schedule and shifts, a user's ability to swap assigned shifts, and a user's ability to only enter information against his/her name in the on-line program. It is well-known in places of employment that when an employee wants to swap shifts, he/she must locate another employee with which to swap by verbally communicating with other employees or by posting a message for other employees to see. Since the system of MizziSoft only allows an employee to make changes against his/her name, it would have been obvious to one of ordinary skill in the art at the time of the invention to display the conditional offer in the on-line tool when the first user enters a request to swap shifts in order to efficiency of the tool in allowing users to swap shifts by streamlining the known process of swapping shifts.

Furthermore, MizziSoft discloses a computer-implemented means to trade shifts. It is old and well known that places of employment require that employees give notice by a specific deadline in order to do things such as take leave, swap shifts, etc. For example, at a bare minimum, an employee must swap a shift before the start of the shift in order to make sure the shift is staffed and the employee's responsibilities are filled. Examiner points out that in the broadest reasonable interpretation, the limitation "minimum time period" would any amount of time, such as the time just before the start of the shift. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a requirement in the online program of MizziSoft that specifies the swap must occur before the start of the swapped shifts in order to increase the efficiency of the schedule and the timeliness of the company by making

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sure that all areas involved are appropriately staffed. MizziSoft discusses the need of the company to reallocate shifts in at least page 2, section 1-2, page 3, sections 1 and 2, page 7, section 1, and page 9, sections 2-4.

5. As per claim 19, MizziSoft teaches a computer-implemented method for processing signals related to trading shifts between employee, the method comprising:

establishing a preliminary schedule of shifts in a computer system (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, which discloses establishing a preliminary schedule);

presenting to the first employee by the computer system the preliminary schedule of shifts (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, which discloses the first user viewing information);

accepting by the computer system a conditional offer from the first employee, assigned to work a first shift, to trade the first shift for another shift on the preliminary schedule of another employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, wherein a first employee enters a swap offer into the on-line program, wherein a preliminary schedule is already established);

displaying by the computer system the shifts to other employees (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, wherein the shifts and schedule can be viewed);

receiving a conditional acceptance by the computer system a second employee to trade a second shift of the second employee for the offered first shift of the first employee (See at least

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page 9, section 2-4, wherein a second employee would enter a swap request against his/her name);

confirming a trade of the first shift of the first employee for the second shift of the second employee upon verification of criteria, or rejecting the trade of the first shift for the second shift upon non-verification of the criteria (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees); and

transferring by the computer system, upon confirmation of the trade, the first shift from the first employee to the second employee and transferring the second shift from the second employee to the first employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4).

However, MizziSoft does not expressly disclose displaying to other employees the first user's conditional offer.

MizziSoft teaches displaying the schedule and shifts, a user's ability to swap assigned shifts, and a user's ability to only enter information against his/her name in the on-line program. It is well-known in places of employment that when an employee wants to swap shifts, he/she must locate another employee with which to swap by verbally communicating with other employees or by posting a message for other employees to see. Since the system of MizziSoft only allows an employee to make changes against his/her name, it would have been obvious to one of ordinary skill in the art at the time of the invention to display the conditional offer in the

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on-line tool when the first user enters a request to swap shifts in order to efficiency of the tool in allowing users to swap shifts by streamlining the known process of swapping shifts.

6. As per claim 20, MizziSoft teaches a computer-implemented method further comprising verifying by the computer system an identity of a first employee and verifying by the computer system an identity of a second employee (See at least page 2, section 1-2, page 4, sections 1-4, page 8, sections 1-4, and page 9, section 2-4, and pages 13 and 14, wherein the employee is verified).

7. As per claim 21, MizziSoft teaches a computer-implemented method wherein the step of confirming includes checking training data associated with the second employee in a training data database (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees).

8. As per claim 22, MizziSoft teaches a computer-implemented method wherein the step of confirming includes comparing by the computer system the training data associated with the second employee with training requirements associated with a work area function to be performed on the first shift to verify that the second employee is qualified to perform the work area functions associated with the first shift (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, and page 9, sections 2-4, wherein the training data and other data associated with the second employee is filtered for the swap so that the employees may only roster themselves with specific employees).

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9. As per claim 23, MizziSoft teaches a computer-implemented method wherein the step of confirming includes that the shifts are traded before the start of either of the first or second shifts and providing a management user of the computer system with the capability to change the schedule very close to the start of the shifts (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4).

However, MizziSoft does not expressly disclose checking by the computer system a length of time between a time of receipt of the conditional acceptance and a time of occurrence of the first shift and the second shift against a minimum time period for trading shifts to verify that the length of time is not less than the minimum time period.

MizziSoft discloses a computer-implemented means to trade shifts. It is old and well known that places of employment require that employees give notice by a specific deadline in order to do things such as take leave, swap shifts, etc. For example, at a bare minimum, an employee must swap a shift before the start of the shift in order to make sure the shift is staffed and the employee's responsibilities are filled. Examiner points out that in the broadest reasonable interpretation, the limitation "minimum time period" would any amount of time, such as the time just before the start of the shift. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a requirement in the online program of MizziSoft that specifies the swap must occur before the start of the swapped shifts in order to increase the efficiency of the schedule and the timeliness of the company by making sure that all areas involved are appropriately staffed. MizziSoft discusses the need of the company to reallocate shifts in at least page 2, section 1-2, page 3, sections 1 and 2, page 7, section 1, and page 9, sections 2-4.

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10. As per claim 24, MizziSoft teaches a computer-implemented method wherein the step of confirming includes displaying by the computer system to the second employee, upon confirmation of the trade, notifications relevant to the work area function of the first shift and the training data associated with the second employee (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, sections 2-4, and pages 13 and 14, wherein notifications about the shift and training data are viewable).

11. As per claim 25, MizziSoft teaches a computer-implemented method wherein the step of confirming includes indicating by the computer system to the first employee, upon confirmation of the trade, confirmation of the trade (See at least page 2, section 1-2, page 3, sections 1 and 2, page 4, sections 1-4, page 7, section 1, page 8, sections 1-4, and page 9, section 2-4, wherein the schedule and shifts are viewable and once the swap occurs, the new schedule will also be visible).

12. As per claim 26, MizziSoft teaches a computer-implemented method wherein the step of confirming includes restricting by the computer system access to information about the trade of the first shift for the second shift upon confirmation of the trade (See at least page 9, sections 2-4, wherein access to information is restricted).

***Response to Arguments***

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Primetime (www.blue-pumpkin.com) teaches a workforce management system.

Advanced Personnel Systems (www.hrcensus.com) discloses software for human resources management software.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

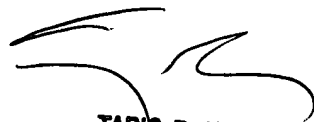
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 7, 2004

  
TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600